

Approved for public release May 5, 2014

~~TOP SECRET//COMINT~~ [REDACTED] ~~ORCON//NOFORN//MR~~

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TASH HEPTING, GREGORY HICKS,
CAROLYN JEWEL, and ERIK KNUTZEN
On Behalf of Themselves and All Others
Similarly Situated,

Plaintiffs,

v.

AT&T CORP., AT&T INC., and
DOES 1-20, inclusive,

Defendants.

Case No. C-06-0672-VRW

**CLASSIFIED DECLARATION OF
WILLIAM B. BLACK, ACTING
DIRECTOR, NATIONAL
SECURITY AGENCY**

**SUBMITTED IN CAMERA,
EX PARTE**

Hon. Vaughn R. Walker

***IN CAMERA, EX PARTE DECLARATION OF WILLIAM B. BLACK, ACTING
DIRECTOR, NATIONAL SECURITY AGENCY***

I, William B. Black, do hereby state and declare as follows:

(U) INTRODUCTION

1. ~~(S)~~ I am the Deputy Director of the National Security Agency (NSA), an intelligence agency within the United States Department of Defense (DoD). Pursuant to the NSA's Order of Succession, I am also currently the Acting Director because the Director is outside the United States. As Acting Director, I am responsible for directing the NSA, overseeing the operations undertaken to carry out its mission and, by specific charge of the President and the Director of National Intelligence, protecting NSA activities and intelligence sources and methods. I have been designated an original TOP SECRET classification authority under Executive Order No. 12958, as amended. In the course of my official duties, I have been informed about this lawsuit, the issues raised by the Plaintiffs' claims and new facts relevant to this lawsuit.¹

¹ ~~(S)~~ Pursuant to the standards in Executive Order No. 12958, as amended by Executive CLASSIFIED SUPPLEMENTAL DECLARATION OF WILLIAM B. BLACK, ACTING DIRECTOR, NATIONAL SECURITY AGENCY, CASE NO. C-06-0672-VRW

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~~TOP SECRET//COMINT~~ [REDACTED] ORCON/NOFORN/MR2. ~~(TS//SI~~ [REDACTED] ~~OC/NF)~~ In a supplemental *in camera*, *ex parte* declaration

dated June 16, 2006, the Director of National Intelligence, John D. Negroponte, has asserted the military and state secrets privilege and a statutory privilege over new facts related to a May 24, 2006 Order of the Foreign Intelligence Surveillance Court (FISC). [REDACTED]

[REDACTED] I have reviewed the FISC's Order and Director Negroponte's supplemental declaration, and I agree with Director Negroponte that the disclosure of information related to the FISC's Order would cause exceptionally grave damage to the national security. I also note that the FISC has prohibited the disclosure of information related to the Order except pursuant to narrow exceptions not applicable here. Accordingly, I support Director Negroponte's privilege assertions and likewise assert the NSA's statutory privilege, set forth in section 6 of the National Security Agency Act of 1959, Public Law No. 86-36 (codified as a note to 50 USC. § 402), over the same information.

I declare under penalty of perjury that the foregoing is true and correct.

DATE: 16 JUN 06

 WILLIAM B. BLACK

Acting Director, National Security Agency

Order No. 13292, this declaration is classified as: TOP SECRET//COMINT [REDACTED] TSP//ORCON/NOFORN. The details concerning these classification markings are set forth in the May 12, 2006 *In Camera*, *Ex Parte* Declaration of Keith B. Alexander, Director, National Security Agency ("*In Camera* Alexander Decl."), at ¶¶ 5-8.
CLASSIFIED SUPPLEMENTAL DECLARATION OF WILLIAM B. BLACK,
ACTING DIRECTOR, NATIONAL SECURITY AGENCY, CASE NO. C-06-0672-VRW

~~TOP SECRET//COMINT~~ [REDACTED] ORCON/NOFORN/MR